

Testimony of  
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Regarding  
Documents and Benefits Application Fraud

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Subcommittee on Immigration and Claims

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## INTRODUCTION

Mr. Chairman and members of the Subcommittee:

On behalf of the Immigration and Naturalization Service (INS), I am pleased to have this opportunity to testify on document fraud and benefit application fraud.

Immigration fraud has increased dramatically in recent years and currently affects all aspects of INS responsibility. As the INS has bolstered and expanded its border control, worksite enforcement, and criminal alien programs, there has been a corresponding increase in the number of aliens resorting to fraudulent means to enter and remain in the United States.

In general, immigration fraud falls into two broad categories: document fraud and benefit application fraud.

(1) Document fraud encompasses the counterfeiting, sale, and/or use of identity documents or breeder documents such as birth certificates and Social Security cards, alien registration documents and stamps, passports and visas, and other fraudulent documents and paperwork to circumvent the immigration laws of the Nation. These fraudulent documents are often relied upon either to enter the United States or function within American society (e.g., worksites), or to support the acquisition of lawful immigration benefits.

(2) Benefit application fraud involves the willful misrepresentation of a material fact to gain an immigration benefit in the absence of lawful entitlement. In point of fact, document fraud and benefit application fraud are often part of a continuum.

## SCOPE OF THE PROBLEM

Of the two categories, benefit application fraud poses the greater threat to the integrity of INS approval procedures for granting legal status. With benefit application fraud, an ineligible alien who successfully passes through the INS adjudicatory process receives a valid, Service-issued alien registration card and is unlikely to be detected thereafter. The alien, in effect, is "home free." In contrast, a smuggled or otherwise illegal alien who does not choose this path must constantly keep a "low profile" or use fraudulent documents to avoid detection. Then too, the continued reliance on fraudulent identity documents subjects the alien to greater risk of detection.

As INS capability to uncover document fraud advances, ineligible aliens will resort increasingly to benefit application fraud to obtain the highly valued authentic immigration documents.

Benefit application fraud encompasses naturalization, political asylum, permanent residence based on marriage and other family relationships, legalization, Temporary Protected Status (TPS), and employment-based immigrant and non-immigrant categories. Accompanying this testimony is an addendum containing summaries of fraud investigations that reflect the broad spectrum of immigration fraud.

In addition to the wide range of INS programs affected, the sheer volume of fraudulent applications relating to a single benefit fraud scheme can be enormous, and the structure of the criminal conspiracy complex. Operation Desert Deception is a case in point. The investigation targeted several immigration consulting businesses that filed applications to qualify illegal aliens under the extended legalization and Special Agricultural Worker (SAW) programs. Of the 22,000 applications filed by the targeted arrangers, nearly 5,500 were admittedly fraudulent, and 4,400 were suspected of being fraudulent. As a result of the investigations, 54 individuals were successfully prosecuted. The Government estimates that these individuals received in excess of \$4,000,000 in fees for filing the fraudulent "late amnesty" applications.

Of special note is the fact that Operation Desert Deception was the first time INS used extensive computer support and rudimentary data mining techniques to identify fraud trends among potentially fraudulent cases. Large scale conspiracies can no longer be investigated solely with traditional investigative techniques. Like a single money laundering transaction, an individual fraudulent application can often easily pass scrutiny. Only through computer analysis was it determined that hundreds of individuals were simultaneously claiming to be living in the same one bedroom apartment; or that hundreds of others claimed to be living simultaneously at the same, nonexistent addresses.

Moreover, alien criminals and terrorists manipulate the benefit application process to facilitate expansion of their illegal activities, such as crimes of violence, narcotics trafficking, terrorism, and entitlement fraud. For example, Mir Aimal Kansi, the Pakistani terrorist wanted in connection with the Central Intelligence Agency Headquarters shootings, had been issued two employment authorization documents: one after having applied for political asylum; and, one after having applied for legalization. The nexus between criminal activity and benefit fraud is also evident in the cases of suspected Russian organized crime figures who are the beneficiaries of L-1 (Intra-company transferee) petitions filed by non-existent or non-operating businesses.

## PAST INS ANTI-FRAUD EFFORTS

The investigation of immigration fraud has long been an enforcement mandate of the Investigations Division of the INS. Under the Investigations Case Management System, inaugurated in 1983, emphasis was placed on identifying, developing, and prosecuting cases against fraud facilitators involved domestically or on foreign soil in the sale, distribution, manufacture, or alteration of fraudulent documents, and those who broker illicit services to aliens, such as sham marriages, fictitious job offers, and bogus investment schemes.

The passage of the Immigration Reform and Control Act of 1986 (IRCA) and the Immigration Marriage Fraud Amendments Act greatly expanded the INS' obligations to detect and deter fraud during the legalization process, the employment eligibility verification process, and the acquisition of legal benefits

through spousal and fiancé(e) relationships. To counter the escalating incidence of IRCA-related fraud, the INS in 1988 included the detection and deterrence of fraud among its top priorities. Exclusive of the traditional types of immigration fraud such as marriage and other relationship fraud and occupational preference fraud, Investigations' responsibilities with regard to IRCA fraud alone were extensive. Yet, because of additional responsibilities mandated under the new immigration laws and the Anti-Drug Abuse Acts of 1986 and 1988, the dedication of resources to traditional fraud investigations was severely curtailed.

#### Statistical Data

A review of statistical data between 1985 and 1996 points out the impact of other Service priorities on the INS fraud program. In 1985, the productive workyears (FTEs) devoted to fraud investigations equated to 256 special agents. With implementation of the Employer Sanctions provisions of IRCA, the special agent equivalent dropped to 201 in 1987 and to 139 in 1988. Between 1989 and 1991 resources devoted to fraud investigations increased. However, in 1992 with the reassignment of 150 special agents to the Violent Gang Task Force (VGTF) initiative of a former Attorney General, the special agent equivalent dropped significantly again from 231 to 210. With the redirection of manpower to the incarcerated criminal alien removal program and insufficient base funding, these numbers dropped to 181 in 1995 and to 139 in 1996.

In 1985, INS Investigations received 15,171 fraud cases and completed 11,316. In 1987, receipts dropped to 6,880 cases and completions fell to 6,536. In 1988, receipts stood at 6,266 with completions at 5,741 cases. The decline in receipts was attributable to the fact that a field office would not receive and open cases that the office did not have the resources to work and to the fact that other INS components were reluctant to refer suspected fraud cases to field Investigations offices that did not have sufficient resources to conduct the necessary investigations.

In 1995, servicewide, Investigations received 13,524 cases and completed 6,455. Investigations completed this task with 181 investigators, fewer than the number available in 1985. Considering only active cases received, investigators completed 47 percent of their work, which left 53 percent not completed. In 1996, receipts amounted to 8,514 fraud cases, but inadequate resources resulted in the completion of only about 50 percent (4,366) of such cases. Other investigative activities such as Anti-smuggling, Organized Crime Drug Enforcement Task Force, and Violent Gang Task Force do a significant amount of fraud work. However, this fraud work is tracked as other than fraud and, therefore, is not included in INS fraud statistics.

The Immigration Examinations Fee Account (EFA), which authorizes the Attorney General to use examinations fees collected by the INS to pay for processing applications and petitions under the INA, was established by the Department of Justice Appropriations Act of 1989. In March 1992, Congress approved the reprogramming of 100 permanent INS Investigations positions to be funded by the EFA. The 100 positions were dedicated to the conduct of fraud investigations in support of the Adjudications and Naturalization programs. These benefit fraud investigations target single issue fraud schemes, as well as major fraud facilitator conspiracies and large-scale fraud organizations, such as marriage fraud rings.

In 1993, as part of a comprehensive political asylum reform initiative, the INS established a fraud task force aimed at curbing abuse of the Asylum program. The task force mounted a two-pronged crackdown on fraudulent asylum applications, designed to locate unscrupulous preparers of abusive asylum applications, pursue possible criminal prosecutions and impose fines under the Civil Document Fraud provisions of the Immigration and Nationality Act (INA). Asylum fraud cases targeted aliens and United States citizens engaged in individual or group schemes to obtain work permits for aliens by filing fraudulent asylum applications. Together with the legislative changes and the successful fraud conspiracy prosecutions of facilitators, a notable decrease in the number of filings of fraudulent asylum applications occurred.

During FY 1996, the INS presented for prosecution an impressive number of cases involving federal criminal violations directly related to fraud investigations. These cases included individual violations of Title 18 USC § 1001, making a false statement or writing (1429); Title 18 USC § 1028, possessing identity documents to use falsely (4563); Title 18 USC § 1543, using a forged or altered passport (267); Title 18

USC § 1544, misusing a passport (441); Title 18 USC § 1546, making, altering, or selling false INS documents (116); Title 18 USC § 1546, using or possessing false INS documents (1031); Title 18 USC § 371, conspiring to commit an offense or defraud (504); and Title 18 USC § 911, making false claims to United States citizenship (7130).

#### CURRENT INS ANTI-FRAUD EFFORTS

Although not currently a stand-alone priority of the INS, fraud detection and deterrence is an important component of a Fiscal Year 1997 (FY) priority called "Improve Adjudicative Services". In accordance with this priority, the INS implemented a joint application fraud initiative coordinating the INS Offices of Investigations and Benefits. The INS dedicated its enforcement efforts to improving its focus on application fraud by using cross-discipline fraud teams, streamlined fraud indicators, and standardized referral procedures. The initiative further calls for the initiation of three pilots, one per region, in cooperation with the respective INS service center, to conduct one large-scale application fraud case by each pilot. Implementation of the initiative is currently under way. The Service Centers now handle 57 percent of the applications adjudicated by the INS. Additionally, each service center has an operations unit that focuses on detecting document and benefit fraud.

Each service center will continue to develop new and/or update existing fraud indicators for use in identifying major application fraud conspiracies. The service centers will refer relating suspect applications and petitions to the appropriate district office for analysis and consideration of investigation.

Following the investigation, the pilot district shall refer the investigative findings and the relating applications back to the requesting service center, which will then complete the adjudication of the suspect applications/petitions and place in removal proceedings beneficiaries/applicants of fraudulent petitions/applications.

Each pilot office will establish a local fraud team consisting of district adjudications officers, Examinations Fee Account special agents and/or special agents. Fraud team members shall be drawn from the existing workforce, as no additional appropriation has been provided.

The INS shall monitor productivity of the fraud teams and analyze data on fraud trends. The effectiveness of the initiative will be instrumental in determining whether or not fraud deterrence should become a stand-alone priority of the INS in FY 1998.

Additionally, the INS has developed a flagging project that, when implemented, will alert INS personnel to possible fraudulent applications and fraud schemes. The flagging project relies upon the interface between two INS databases, the Central Index System (CIS) and the National Automated Immigration Lookout System (NAILS) to update the CIS records with a corresponding NAILS flag that alerts users that there is additional information in the NAILS record. NAILS contains information of persons of interest to INS and other federal agencies for law enforcement purposes. At present, the database contains thousands of records that are identified as persons inadmissible to the United States or ineligible to receive immigration benefits because they are criminals, deported aliens, terrorists, or illegally in the United States. CIS contains current status and historical information on persons of interest to the INS and acts as an index system. When fully implemented the flagging project will encompass those fraudulent records in CIS that involve the illegal purchase of genuine INS documents from INS employees, and those involving the payment or bribe to an INS employee in return for favorable action.

#### CURRENT RESOURCES TO COMBAT FRAUD

Currently, the Examinations Fee Account (EFA) authorizes funding for 100 special agents. This funding, however, is not adequate to fully cover the cost of conducting benefit fraud investigations. The annual modular cost to the Investigations Program for one special agent is \$142,105. Thus while 100 special agents are authorized to be funded from the EFA, the \$9,633,488 available from the EFA for 1997 provides funding for only 84 special agents, 6 supervisory special agents, and no clerks. The Office of Investigations has recommended a restructuring of the EFA so that funding coincides with workload and case cost, and a

yearly review of the EFA to ensure that funding, once adjusted, continues to match case cost and workload. Projections for FY 1997 indicate that investigative time devoted to fraud investigations will be very close to the FY 1996 level of 165 workyears.

## IMPACT OF ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 (IIRIRA) ON FRAUD

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) carries enhancements which will be helpful in combating fraud as it relates to immigration. Several sections increase criminal penalties; thereby enhancing deterrence as well as increasing the likelihood of prosecution of crimes relating to fraud activities.

### Document Fraud

IIRIRA has increased criminal penalties for fraudulent use of government-issued documents; knowingly presenting a document which fails to contain a reasonable basis in law or fact; and for voting by aliens in a Federal election. IIRIRA has also created new document fraud offenses and added civil penalties for document fraud. Under IIRIRA, fraudulent activities punishable under specific sections of Title 18 United States Code, in relation to the issuance or use of a passport or visa, can result in a criminal forfeiture order for a conveyance or property, either real or personal, which was derived from proceeds or used to facilitate the fraud. These penalties will allow the Service to enhance its ability to bring criminal cases while providing a mechanism for punishing those who might not ever be brought to criminal trial, through civil penalties.

### Benefit Fraud

As well as the increased penalties and punishments noted above for document fraud, IIRIRA will allow the Service to more effectively combat benefit fraud. The addition of a criminal penalty for "failure to disclose role as preparer of false application for immigration benefits" acknowledges the role of those unscrupulous individuals who would flaunt our laws for personal gain. The criminal penalties put in place by IIRIRA for false claims to United States citizenship in procurement of employment or governmental benefits is a powerful means to combating benefit fraud as well and where cases can be proven the Service will prosecute.

### New Tools

IIRIRA also authorizes the Service to utilize the investigative and prosecutorial strengths of the RICO statutes and the investigative technique of "wire taps" in pursuing fraud crime. These two major investigative tools added to the authority to subpoena records and persons in fraud cases as an investigative tool will greatly enhance the Service's arsenal in deterring and prosecuting fraud violations.

## CONCLUSION

The nation's right to determine who may cross its borders, and preserving the integrity of that process, is defended by fraud investigations. INS controls the admission of aliens to the United States. The pervasive fraud which exists reflects the continuing desire of foreign nationals to emigrate to the United States by any means possible. Discouraging immigration fraud and protecting the integrity of INS benefits and documents legitimately provided to authorized aliens continues to be an INS priority. Special Agents continue to vigorously pursue counterfeit document manufacturers, vendors, and INS benefit fraud facilitators.

## ADDENDUM

The following cases represent the range of INS fraud investigations conducted at a single INS district office during the past eighteen months. They indicate the broad spectrum of fraud being perpetrated on INS, as

well as the ingenuity and flexibility of aliens and those facilitators and attorneys providing fraudulent services to aliens.

#### OPERATION CHESTNUT

An upstate New York bodega owner, who was to become a U.S. citizen only one day after his arrest, was charged with visa fraud and conspiracy. NY investigators acted on a tip from the U.S. Postal Service that packages containing spurious sheets of green cards, Social Security cards and laminates were being delivered to the store via a Los Angeles connection. A controlled delivery was made, and subsequent search and arrest warrants were executed. During the search, dozens of fraudulent cards and laminates were discovered. The owner's naturalization application was pulled immediately after his arrest, and pending the outcome of the government's case against him, deportation proceedings will be initiated. The owner's brother was also arrested in the operation. In December 1996, NY INS agents flew to California to arrest the lawful permanent resident who had sent the fraudulent cards to the New York vendor, for visa fraud, conspiracy and mail fraud. A consent to search was authorized, and agents recovered phone records documenting ties to the New York owner.

#### OPERATION RICO

This operation involved a document vendor whose modus operandi was to establish a business, and then send out scouts to recruit illegal aliens who wanted to purchase fraudulent documents or to file fraudulent paperwork with INS. The vendor charged \$250 for a bogus green card/Social Security Card package; \$6,000 for fraudulent filing Adjustment of Status packages; and \$500 for filing false political asylum applications. The sole reason for filing false paperwork with INS was to obtain legitimate employment authorization while the application was pending. The arranger would periodically shut the business down and open up elsewhere under a new name. This vendor had been in operation for over three years, and had established at least four businesses in 1996 alone. Three persons were arrested in this operation, and all have plead guilty.

#### OPERATION WATSON

A Queens-based counterfeit document ring, whose members used bicycles to hand off orders in an attempt to avoid pursuit by federal investigators, was recently broken up by New York agents. The ring supplied counterfeit sets of green cards and Social Security Cards to unauthorized aliens who used the documents to work illegally. The customers paid \$100 per set of cards after providing a photo and the biographical data to be printed on the cards. New York investigators utilized bicycles to follow the couriers of the fraudulent cards to detect the actual location where the cards were being manufactured. A search warrant was executed and the subsequent arrests of two co-conspirators followed. Over 100 sheets of documents were recovered, along with the seizure of a camera, typewriter, and two laminating machines used to create the cards--as well as a bicycle used by one of the couriers. Two arrest warrants remain outstanding, and agents believe that two subjects have fled the United States.

#### WEST AFRICAN TASK FORCE

Based on analytical comparisons through the INS Forensic Document Laboratory's Document Link Identification System, a new type of fraudulent document-producing machine was discovered which manufactured spurious I-551s (green cards) which were then distributed in the New York area for \$500. Working with the U.S. Secret Service's West African Task Force, NY Investigations located, arrested, and indicted the distributor of the documents.

#### OPERATION PENGUIN

A Brooklyn-based fingerprint/immigration assistance agency has served as a sophisticated front for an illicit operation which deliberately filed I-485 Adjustment of Status Applications without any of the required supporting documentation necessary for applicants to legitimately apply for a government issued work card. The New York District's employment authorization unit alerted Investigations after noting that

numerous individuals were filing for work authorization without the required documents substantiating a legitimately pending I-485 application. The owner of the business was recently arrested on fraud charges.

#### OPERATION VULTURE NEST

A Manhattan-based attorney was arrested and charged with conspiracy to defraud INS after a 15-month investigation based on the attorney's alleged scheme to file fraudulent employment-based green card applications with inflated company figures. The reason for inflating the figures (which included the number of employees, the year in which each company was established, as well as the gross and net annual company income) was to make INS believe the companies were more lucrative than they actually were. The attorney included fraudulent documentation with the applications, including fraudulent tax returns and company stock certificates. He was arraigned and released on bond. The case was opened after a referral from the Vermont Service Center (VSC).

#### OPERATION RED

An upstate-New York agency legitimately operated as a money order/phone center/fingerprint/immigration assistance business. But, behind the scene, they provided fraudulent supporting documentation for non-existent I-485s (Adjustment of Status applications) in support of I-765s (Applications for Work Authorization). The district's employment authorization unit alerted Investigations after numerous applicants submitted identical photocopies of a single INS cash register receipt. The receipt serves as proof that an alien has filed a legitimate adjustment of status application. Enough information was gleaned by NY investigators to justify a search and arrest warrant against the owner and her company. She was subsequently arrested and is currently awaiting trial.

#### OPERATION XENON

In a case so prominent that it was featured in The Washington Post last November, a Manhattan-based attorney and three of his clients were targeted in an international plot to fly United States citizen women to Bangladesh to engage in sham marriages to Bangladeshi men willing to pay \$30,000. This arrangement ultimately enables the groom to obtain permanent residence in the United States. For two years, the NY INS office has been working closely with the U.S. Department of State in this investigation. Three of the four subjects have already been arrested (including the attorney). The primary subject, however, absconded when he became aware that INS had arrested his three coconspirators.

#### OPERATION GOLF CLUB

A fraud ring consisting of marriage arrangers has orchestrated approximately 300 suspected fraudulent marriages to secure permanent residence for men from Egypt, Morocco, Lebanon, Algeria, Jordan, and China. NY investigators, working with Boston, Newark, and Providence agents, arrested nine individuals, including a United States citizen attorney. All five defendants arrested in New England have pled guilty, while the trial for the remaining four defendants arrested in New York and New Jersey has been set for June 10, 1997.

#### OPERATION CYPHER

Political asylum cases are sensitive in nature, as applicants are seeking refuge in the United States for fear of persecution in their homelands. Those who commit asylum fraud take away from legitimate asylum seekers in that they serve to clog the system and create tremendous backlogs on the interview calendar. NY Investigations takes asylum fraud very seriously, and Operation Cypher is turning out to be a major victory in combating such fraud. Five arrest warrants have been issued, and four individuals have been taken into custody, with the last subject remaining a fugitive. In September 1996, three of the subjects were indicted, including a Manhattan-based attorney, who filed hundreds of bogus, boiler-plate asylum applications for profits ranging from \$300 to \$800 per application.

#### OPERATION ARROW

This operation saw the arrest of an immigration attorney, and three of his associates on charges that they prepared and filed thousands of fraudulent political asylum applications, labor certifications, nonimmigrant visa applications, and suspension of deportation cases. Expelled from practicing law in New York, the attorney had continued to practice law under the auspices of another attorney to whom he sold his law firm.

#### OPERATION ZEPHYR

Three prominent New York attorneys and two of their secretaries were arrested for participating in the prolific scheme of filing over 1,500 fraudulent asylum applications. One attorney has pled guilty to conspiracy to file fraudulent INS applications, and the two other attorneys have pled guilty to conspiracy to defraud the United States, conspiracy to file fraudulent INS applications, and to knowingly and willfully concealing a material fact/false statements.

#### OPERATION INDIAN TRAIL

Nine individuals have been arrested in this H-1B (temporary work visa) fraud/smuggling operation involving hundreds of aliens smuggled into the United States. Fronting as a legitimate investment firm from the former Soviet Union, the proprietors of the operation filtered H-1B applications through the Vermont Service Center, ultimately obtaining temporary work permits for illicit applicants. With work permits, beneficiaries could then seek employment anywhere without suspicion from employers. The last of the nine subjects was arrested in April 1996. Eight of the nine have already pled guilty to charges ranging from fraudulent statements; conspiracy; visa fraud; establishing a commercial enterprise evading immigration laws; and smuggling. One subject remains a fugitive from justice.

#### OPERATION HOME

NY investigators focused on this group of individuals who smuggled females out of the former Soviet Union and into the United States, where they were put to work as domestics for U.S. families. The women entered the United States with B-2 visas obtained by fraudulent statements, but surrendered their passports to the smugglers upon entry into the country. The smugglers held the women's passports for ransom until each woman paid a smuggling fee of between \$2,000 to \$2,500. Three principals have been arrested, and two have already pled guilty to alien smuggling charges. Charges are still pending against the third.

#### OPERATION SCOOPY

New York INS agents, in conjunction with the U.S. Department of State, have uncovered an operation which has been exploiting the State Department's DV-1 Diversity Visa Lottery Program. Under the program, natives of certain countries are allowed to file for permanent residence, but each applicant may only file one application. Three subjects of this investigation have filed over one hundred applications for the program by utilizing different names. To date, two of the subjects have been arrested.

#### OPERATION YO-YO

This large-scale investigation broke up a network which was involved in passport, marriage, and legalization fraud. Thus far, six co-conspirators have been arrested, and execution of a search warrant has resulted in the seizure of thousands of fraudulently-prepared immigration documents. This ring had fraudulently obtained lawful permanent resident status for two aliens recently convicted on charges of terrorism.